



SEABOARD COAST LINE RAILROAD COMPANY

Treasury Department

P. O. Box 27581

Richmond, Virginia 23261

LEONARD G. ANDERSON
VICE PRESIDENT AND TREASURER

April 30, 1979

9-121A101

Mr. H. G. Homme, Jr.
Secretary

Interstate Commerce Commission

Washington, D. C. 20423

RECORDATION NO. 10329 Filed 1425

Date MAY 05 1979

Fee \$ 50.00

MAY 1 1979 - 3 20 PM

ICC Washington, D. C.

Dear Mr. Homme:

I am enclosing for filing and recordation under the provisions of 49 U.S.C. §11303 executed counterparts Nos. 1 through 4 of a Conditional Sale Agreement and Agreement and Assignment thereof, both dated as of April 15, 1979, described in detail below. Such documents provide by their terms that each counterpart shall be deemed an original and, accordingly, counterpart No. 2 may be treated as an original and the others as counterparts thereof.

1. Names and addresses of the parties to the Conditional Sale Agreement and Agreement and Assignment thereof

- (a) Vendor-Assignor - B. H. Hansen, 3600 West Broad Street, Richmond, Virginia 23230
- (b) Vendees - Seaboard Coast Line Railroad Company, 3600 West Broad Street, Richmond, Virginia 23230, and Louisville and Nashville Railroad Company, 908 West Broadway, Louisville, Kentucky 40201
- (c) Assignee - North Carolina National Bank, P. O. Box 120, Charlotte, North Carolina 28255

2. Description of equipment covered by Conditional Sale Agreement

Identifying marks

"Ownership Subject to a Security Agreement
Filed With the Interstate Commerce Commission"

Handwritten signature: C. Anderson
Handwritten signature: H. V. Bagley
RECEIVED
MAY 1 3 16 PM '79
I.C.C.
FEE OPERATION BR.

| <u>General</u> <u>Description</u> | <u>Type of Equipment</u> | <u>A.A.R.Mech.</u> <u>Design.</u> | <u>No.</u> | <u>Road Numbers</u> |
|--------------------------------------|--------------------------|--------------------------------------|------------|-----------------------------|
| Diesel locomotives | Model GP-16 | B-B | 4 | CRR 4602-4605, inclusive |

3. The original counterparts Nos. 2 through 4 of the above mentioned documents should be returned to Mr. Woodruff M. Price, 1000 Connecticut Avenue, N.W., Washington, D. C. 20036, acting on my behalf.

I am enclosing Clinchfield Railroad Company's check for \$50.00 covering the recordation fee for the above mentioned documents.

Yours very truly,

SEABOARD COAST LINE RAILROAD COMPANY

By



Leonard G. Anderson
Vice President and Treasurer

Interstate Commerce Commission
Washington, D.C. 20423

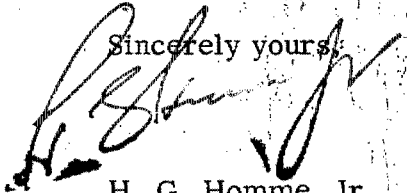
5/1/79

OFFICE OF THE SECRETARY

Leonard G. Anderson
Vice President & Treasurer
SeaBoard Coast Line Railroad Company
P.O.Box 27581
Richmond, Virginia 23261
Dear **Sir:**

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on **5/1/79** at **3:20pm**, and assigned recordation number(s). **10329**

Sincerely yours,


H. G. Homme, Jr.
Secretary

Enclosure(s)

SE-30
(3/79)

CONDITIONAL SALE AGREEMENT

Dated as of April 15, 1979

10329
REGISTRATION NO. FILED 1979

MAY 1 1979 - 3 30 PM

INTERNATIONAL COMMISSION

Between

B. H. HANSEN

and

SEABOARD COAST LINE RAILROAD COMPANY

and

LOUISVILLE AND NASHVILLE RAILROAD COMPANY

for

"CLINCHFIELD RAILROAD COMPANY"

AGREEMENT AND ASSIGNMENT

Dated as of April 15, 1979

Between

NORTH CAROLINA NATIONAL BANK

and

B. H. HANSEN

CONDITIONAL SALE AGREEMENT dated as of April 15, 1979, between B. H. HANSEN (hereinafter called Builder), and SEABOARD COAST LINE RAILROAD COMPANY and LOUISVILLE AND NASHVILLE RAILROAD COMPANY, which two railroad companies operate, among other lines of railroad, the line known as "CLINCHFIELD RAILROAD COMPANY", leased from Carolina, Clinchfield and Ohio Railway and Carolina, Clinchfield and Ohio Railway of South Carolina (which first two named railroad companies are hereinafter individually called SCL and L&N, respectively, and collectively called the Railroad).

WHEREAS, Builder has agreed to sell and deliver to the Railroad, and the Railroad has agreed to purchase, four model GP-16 diesel-electric locomotives, road numbers CRR 4602, 4603, 4604 and 4605 (hereinafter called the Equipment);

NOW, THEREFORE, in consideration of the mutual promises, covenants and agreements hereinafter set forth, the parties hereto do hereby agree as follows:

ARTICLE 1. Certain Definitions. The term "Vendor", whenever used in this Agreement, means, before any assignment of any of its rights hereunder, Builder, and, after any such assignment, the assignee or assignees for the time being of such particular assigned rights as regards such rights, and also any assignor as regards any rights hereunder that are retained or excluded from any assignment.

All rights of the Vendor in, to and under this Agreement and in and to the Equipment shall pass to and may be exercised by any assignee thereof.

ARTICLE 2. Creation of Security Interest. The Railroad desires to enter into this Agreement for the purpose of creating a security interest in favor of the Vendor in the Equipment.

ARTICLE 3. Inspection and Delivery. Builder will deliver or cause to be delivered the units of Equipment to the Railroad at Erwin, Tennessee. Upon completion of each unit of the Equipment, it shall be presented to an inspector of the Railroad for inspection at the place specified for delivery, and if each unit conforms to the specifications applicable thereto, such inspector shall execute and deliver to the Vendor a certificate of acceptance stating that it

has been inspected and accepted on behalf of the Railroad and is marked as provided in Article 10 hereof.

Builder agrees with the Railroad that neither the inspection as provided in this Article, nor any examination, nor the acceptance of any unit of the Equipment as provided in this Article shall be deemed a waiver or a modification by the Railroad of any of the warranties made by the Builder regarding the construction or workmanship of the Equipment.

ARTICLE 4. Purchase Price and Payment. The base price of each unit of the Equipment is \$350,000. Such base price is subject to such increase or decrease as is agreed to by the Vendor and the Railroad. The term "Purchase Price" as used herein shall mean the base price as so increased or decreased, plus freight charges, if any.

The Railroad hereby acknowledges itself to be indebted to the Vendor in the amount of, and hereby promises to pay in cash to the Vendor at such place as the Vendor may designate, the Purchase Price of the Equipment, in sixteen consecutive equal (except for appropriate adjustment of the final installment in case the amount payable pursuant to this paragraph shall not, when divided by sixteen, result in an amount ending in an integral cent) semiannual installments, as hereinafter provided, an amount equal to the Purchase Price (the aggregate of said installments being hereinafter called the Conditional Sale Indebtedness).

The installments of the Conditional Sale Indebtedness payable pursuant to the second paragraph of this Article 4 shall be payable semiannually on October 15 and April 15 in each year commencing on October 15, 1979, to and including April 15, 1987. The unpaid portion of the Conditional Sale Indebtedness shall bear interest from the Closing Date (as hereinafter defined) at the rate per annum equal to the prime rate plus 1/4 of one percent based on the prime rate as quoted by North Carolina National Bank, Charlotte, North Carolina, in effect each day, except that the prime rate in effect on the tenth day preceding payment of any installment of such unpaid portion shall apply during such ten-day period. North Carolina National Bank will be responsible for notifying the Railroad of any such change. The term "prime rate" as used herein shall be defined as the lowest minimum lending rate for loans of 90-day maturities to substantial commercial borrowers publicly quoted by North Carolina National Bank. Such interest shall be payable, to the extent accrued, on October 15 and April 15 in each year, commencing October 15, 1979.

The term "Closing Date" shall mean the date set forth in a notice of closing sent by the Railroad to the Vendor. It is understood and agreed that the Vendor shall not be obligated to close after December 1, 1979.

All interest under this Agreement shall be calculated on the basis of a 360-day year of twelve 30-day months.

ARTICLE 5. Security Interest in the Equipment. The Vendor shall and hereby does retain a security interest in the Equipment and any proceeds thereof until the Railroad shall have made all its payments under this Agreement and shall have kept and performed all its agreements herein contained.

Any and all additions to the Equipment and any and all replacements of the Equipment and of parts thereof and additions thereto shall constitute accessions to the Equipment and shall be subject to all the terms and conditions of this Agreement and included in the term "Equipment" as used in this Agreement.

ARTICLE 6. Representations and Warranties. The Railroad represents and warrants that:

(a) SCL is a corporation duly organized and existing under the laws of Virginia; L&N is a corporation duly organized and existing under the laws of Kentucky;

(b) SCL and L&N are duly qualified and in good standing as foreign corporations in every state where such qualification is necessary;

(c) The execution and performance of this Agreement (i) have been duly authorized by action of the Boards of Directors of SCL and L&N, no action of their respective shareholders being necessary; (ii) will not violate or contravene any provisions of law or regulation or of SCL and L&N Articles of Incorporation, By-laws, or other agreements to which either SCL or L&N is a party or by which either is bound;

(d) No consent or approval of any governmental agency or authority is required in the making of this Agreement; and

(e) The financial statements delivered to the Vendor have been prepared in accordance with generally accepted accounting principles, subject to certain exceptions as required by the Interstate Commerce Commission, consistently applied and fairly

represent SCL and L&N results of operations and financial condition as of the date of such statements and no material adverse changes have occurred in such financial condition since such date.

ARTICLE 7. The Railroad covenants and agrees that:

(a) It will maintain the Equipment in good condition and repair, reasonable wear and tear excepted, and will pay and discharge all taxes, levies and other impositions levied thereon;

(b) It will promptly notify the Vendor, in writing, of any permanent change in the location of the Equipment and will permit the Vendor to inspect, at its own risk and expense, the Equipment at any reasonable time and place;

(c) It shall settle all claims against the Builder directly with the Builder and shall not set up such claim in any action brought by assignees of this Agreement;

(d) It shall deliver to the Vendor, upon the Vendor's request, annual financial statements of Seaboard Coast Line Industries, Inc. showing its financial condition and result of operations, including balance sheets and profit and loss statements, prepared by independent certified public accountants;

(e) It shall maintain its corporate existence in good standing and shall not consolidate or merge with any other corporation unless the surviving corporation assumes this Agreement;

(f) If required by the Vendor, it will procure or execute any other document and do any act and pay all costs of filing pursuant to 49 U.S.C. §11303 with respect to the security interest created hereby, and the Vendor is authorized to do all things which it deems necessary to perfect and continue perfected the security interest created hereby and to protect the Equipment; and

(g) It will maintain insurance in respect of the Equipment in amounts and against risks customarily insured against by railroad companies on similar equipment, and in any event in amounts and against risks comparable to those insured against by the Railroad on similar equipment owned by it.

ARTICLE 8. Possession and Use. So long as an event of default shall not have occurred under this Agreement and be continuing, the Railroad and its affiliates shall be entitled to the

possession of the Equipment and the use thereof upon the lines of railroad owned or operated by any railroad company controlled by, or under common control with, SCL or L&N, or over which it has trackage rights, or upon connecting and other carriers pursuant to run-through agreements, from and after delivery of the Equipment, but only upon and subject to all the terms and conditions of this Agreement.

ARTICLE 9. Defaults and Remedies. In the event of default in the payment of the debt referred to in Article 4, or any past or future advances, expenditures, or liabilities hereby secured, or in the due observance or performance of any of the other conditions or agreements hereof; or in the event any of the warranties of the Railroad herein contained shall prove to be false or misleading; or in the event that the Railroad shall become insolvent or shall be adjudicated bankrupt, or shall make an assignment for the benefit of creditors; or bankruptcy, insolvency, reorganization, arrangement, debt adjustment, or liquidation proceedings, or receivership proceedings in which the Railroad is alleged to be insolvent or unable to pay its debts as they mature, shall be instituted by or against the Railroad, and if any of such proceedings are instituted against the Railroad, the Railroad shall consent to the same or admit in writing the material allegations of the petition filed in such proceedings or such proceedings shall not be dismissed within 60 days after their institution; then, upon the occurrence of any of the above events, the Vendor may declare the unpaid balance of such debt and all such advances, expenditures, and liabilities immediately due and payable without demand or notice, and the Vendor may proceed to exercise one or more of the rights accorded by the Uniform Commercial Code in force in the Commonwealth of Virginia at the date of this Agreement. It is understood and agreed that this Agreement has been made and entered into pursuant to such Code and that the Vendor has all the rights and remedies accorded thereby. The Railroad agrees to pay all costs of collecting or attempting to collect any and all amounts owing under or in connection with this Conditional Sale Agreement and the enforcement by the Vendor of any of its rights in connection with its security interest in the Equipment, including, without limitation, the reasonable fees of the Vendor's attorneys. If any provisions of this Agreement shall for any reason be held to be invalid or unenforceable, such invalidity or unenforceability shall not affect any other provision hereof, but this Agreement shall be construed as if such invalid or unenforceable provision had never been contained herein.

ARTICLE 10. Recording and Marking of Equipment. The Railroad will cause this Agreement, any assignments hereof and any amendments or supplements hereto or thereto to be filed and recorded in accordance with 49 U.S.C. §11303.

The Railroad will keep and maintain, plainly, distinctly, permanently and conspicuously marked on each unit, in letters not less than one inch in height, the words "Ownership Subject to a Security Agreement Filed With the Interstate Commerce Commission".

ARTICLE 11. Payment of Expenses. The Railroad will pay all reasonable costs and expenses (other than the fees and expenses of counsel for the Vendor, Assignee and for any party acquiring interests in the assignment) incident to the preparation, recording and filing of this Agreement and such assignment, and any instrument supplemental or related hereto or thereto.

ARTICLE 12. Execution. This Agreement may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same contract, which shall be sufficiently evidenced by any such original counterpart. Although this Agreement is dated, for convenience, as of the date first set forth above, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed.

ARTICLE 13. Liability. All obligations, agreements, representations, warranties and covenants of the Railroad contained in this Agreement and in any other document required by or referred to in this Agreement shall be deemed to have been made, incurred and given jointly and severally by SCL and L&N unless such provision of this Agreement or other document expressly relates only to SCL or L&N, as the case may be.

IN WITNESS WHEREOF, the parties hereto, each pursuant to due authority, have caused this instrument to be executed and duly acknowledged, all as of the date first above written.



B. H. HANSEN


(SEAL)

Attest:


Assistant Secretary

[Seal]

SEABOARD COAST LINE RAILROAD COMPANY

By 
Vice President and Treasurer

Attest:

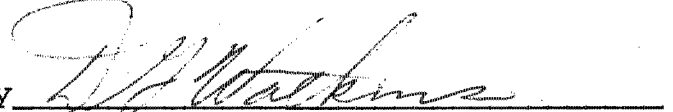
LOUISVILLE AND NASHVILLE RAILROAD
COMPANY



Assistant Secretary

[Seal]

By



Assistant Vice President

COMMONWEALTH OF VIRGINIA)
) ss
CITY OF RICHMOND)

On this 19th day of APRIL, 1979, before me personally appeared B. H. HANSEN, to me known to be the person described in and who executed the foregoing instrument and he acknowledged that he executed the same as his free act and deed.

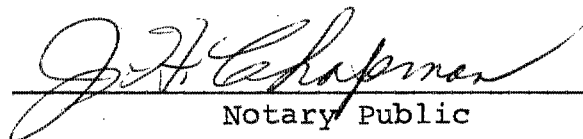

Notary Public

[Notarial Seal]

My commission expires APR 26 1982

COMMONWEALTH OF VIRGINIA)
) ss.
CITY OF RICHMOND)

On this 19th day of APRIL, 1979, before me personally appeared Leonard G. Anderson, to me personally known, who being by me duly sworn, says that he is Vice President and Treasurer of SEABOARD COAST LINE RAILROAD COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.


Notary Public

[Notarial Seal]

My commission expires APR 26 1982

COMMONWEALTH OF KENTUCKY)

) ss

COUNTY OF JEFFERSON)

On this *20th* day of *April*, 1979, before me personally appeared *D. L. Watkins*, to me personally known, who, being by me duly sworn, says that he is *Assistant Vice President* of LOUISVILLE AND NASHVILLE RAILROAD COMPANY, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Patricia A. Oglesby

Notary Public

NOTARY PUBLIC, STATE AT LARGE
My Commission Expires April 12, 1981

[Notarial Seal]

My commission expires

AGREEMENT AND ASSIGNMENT, dated as of April 15, 1979, between NORTH CAROLINA NATIONAL BANK (hereinafter called the Assignee), and B. H. HANSEN (hereinafter called Builder).

WHEREAS, Builder and Seaboard Coast Line Railroad Company and Louisville and Nashville Railroad Company, which two railroad companies operate, among other lines of railroad, the line known as "Clinchfield Railroad Company", leased from Carolina, Clinchfield and Ohio Railway and Carolina, Clinchfield and Ohio Railway of South Carolina (which first two named railroad companies are hereinafter individually called SCL and L&N, respectively, and collectively called the Railroad), have entered into a Conditional Sale Agreement dated as of the date hereof (hereinafter called the Conditional Sale Agreement), covering the sale, on the conditions therein set forth, by Builder and the purchase by the Railroad of the equipment described therein (said equipment being hereinafter called the Equipment);

NOW, THEREFORE, THIS AGREEMENT AND ASSIGNMENT (hereinafter called this Assignment) WITNESSETH: That, in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration paid by the Assignee to Builder, the receipt of which is hereby acknowledged, as well as of the mutual covenants herein contained:

SECTION 1. Builder hereby assigns, transfers and sets over unto the Assignee, its successors and assigns:

(a) all his right, title and interest in and to each unit of the Equipment when and as delivered to and accepted by the Railroad subject to payment by the Assignee to the Railroad of the amount required to be paid under Section 2 hereof; and

(b) all his right, title and interest in and to the Conditional Sale Agreement;

without any recourse against Builder for or on account of the failure of the Railroad to make any of the payments provided for in, or otherwise to comply with, any of the provisions of the Conditional Sale Agreement; provided, however, that this Assignment shall not subject the Assignee to, or transfer, or pass, or in any way affect or modify the liability of Builder with respect to any warranties of Builder set forth in the Conditional Sale Agreement, or the liability of Builder, including, without limitation, any warranty,

negligence or other liability of Builder arising out of the manufacture, reconditioning, and/or sale of such Equipment.

SECTION 2. The Assignee, on the Closing Date fixed as provided in Article 4 of the Conditional Sale Agreement, shall pay to the Railroad or as directed by the Railroad the Purchase Price (as defined in said Article 4) of the Equipment as shown on the invoice therefor, which, under the terms of said Article 4, is payable in installments, provided that:

(1) There shall have been delivered to the Assignee, at least ten business days prior to such Closing Date, the following documents, in form and substance satisfactory to it, in such reasonable number of counterparts as may be requested:

(a) a bill of sale from Builder to the Assignee transferring to the Assignee title to the Equipment, warranting to the Assignee and to the Railroad that at the time of delivery of the Equipment under the Conditional Sale Agreement Builder had legal title to the Equipment and good and lawful right to sell the Equipment and that title to the Equipment was free of all claims, liens, security interests and other encumbrances (other than those created by the Conditional Sale Agreement);

(b) an opinion of counsel for each of SCL and L&N dated as of such Closing Date stating that (i) the Conditional Sale Agreement and the Assignment thereto have been duly authorized, executed and delivered by such railroad and are legal, valid and binding instruments enforceable against such railroad in accordance with their terms, (ii) the filings required by the Interstate Commerce Act have been accomplished, and (iii) title to the Equipment is validly vested in the Assignee and at the time of delivery thereof to the Railroad under the Conditional Sale Agreement was free from all claims, liens, security interests and other encumbrances (other than those created by the Conditional Sale Agreement), and that the Assignee has a valid and perfected first security interest in the Equipment;

(c) a certificate of acceptance in accordance with Article 3 of the Conditional Sale Agreement; and

(d) a certified copy of the resolution of the Board of Directors of the Railroad authorizing the purchase and financing of the Equipment.

(2) No event shall have occurred and be continuing which constitutes a default under the Conditional Sale Agreement and all representations and warranties contained therein shall be true.

(3) All legal and corporate matters incident to the Conditional Sale Agreement and this Agreement and Assignment shall be satisfactory to counsel for the Assignee.

SECTION 3. The Assignee may assign all or any of its rights under the Conditional Sale Agreement, including the right to receive any payments due or to become due to it from the Railroad thereunder. In the event of any such assignment, any such subsequent or successive assignee or assignees shall, to the extent of such assignment, enjoy all the rights and privileges and be subject to all the obligations of the Assignee hereunder.

SECTION 4. The terms of this Assignment and all rights and obligations hereunder shall be governed by the laws of the Commonwealth of Virginia; provided, however, that the parties shall be entitled to all the rights conferred as provided in the Conditional Sale Agreement.

SECTION 5. The Assignee agrees to deliver an executed counterpart of this Assignment to the Railroad, which delivery shall constitute due notice of the assignment hereby made. Although this Assignment is dated for convenience as of the date first set forth above, the actual date or dates of execution hereof by the parties hereto is or are, respectively, the date or dates stated in the acknowledgments hereto annexed.

SECTION 6. This Assignment may be executed in any number of counterparts, all of which together shall constitute a single instrument.

IN WITNESS WHEREOF, the parties hereto each pursuant to due authority, have caused this instrument to be executed and duly acknowledged, all as of the date first above written.

Attest:

Rosina C. Foushee
Assistant Secretary
[Seal]

NORTH CAROLINA NATIONAL BANK

By *W. A. Dodgen*
Vice President

B. H. Hansen (SEAL)
B. H. HANSEN

STATE OF NORTH CAROLINA)
)
CITY OF CHARLOTTE) ss

On this *26th* day of *April*, 1979, before me personally appeared *W. A. Hodges*, to me personally known, who, being by me duly sworn, says that he is *Vice President* of NORTH CAROLINA NATIONAL BANK, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Stephen A. Prustash

Notary Public

(Notarial Seal)

My commission expires *6/1/83*

COMMONWEALTH OF VIRGINIA)
)
CITY OF RICHMOND) ss

On this *19th* day of *APRIL*, 1979, before me personally appeared B. H. HANSEN, to me known to be the person described in and who executed the foregoing instrument and he acknowledged that he executed the same as his free act and deed.

J. H. Chapman

Notary Public

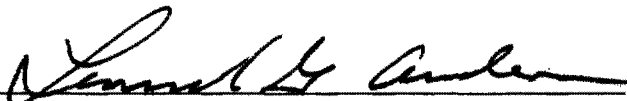
(Notarial Seal)

My commission expires *APR 26 1982*

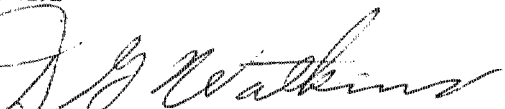
ACKNOWLEDGMENT OF NOTICE OF ASSIGNMENT

SEABOARD COAST LINE RAILROAD COMPANY and LOUISVILLE AND NASHVILLE RAILROAD COMPANY hereby acknowledge due notice of and consent to the assignment made by the foregoing Agreement and Assignment as of April 15, 1979.

SEABOARD COAST LINE RAILROAD COMPANY

By 
Vice President and Treasurer

LOUISVILLE AND NASHVILLE RAILROAD
COMPANY

By 
Assistant Vice President